

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 8, 2003

IN RE:)	
)	
PETITION FOR EXPEDITED REVIEW OF)	DOCKET NO.
GROWTH CODE DENIAL BY THE NUMBER)	03-00482
POOLING ADMINISTRATOR RELATING TO)	
THE KNOXVILLE RATE CENTER)	

**ORDER APPROVING PETITION FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL**

This matter came before Director Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "TRA" or "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 8, 2003 for consideration of the *Petition for Expedited Review of Growth Code Denial by the Number Pooling Administrator Relating to the Knoxville Rate Center* ("Petition") filed by AT&T of the South Central States, LLC ("AT&T") on August 21, 2003.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."¹ Among other things, the FCC

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 FCC Rcd. 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"); see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis.").

adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁴ NeuStar, which was also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. On August 21, 2002, thousands-block number pooling was implemented in the Knoxville Metropolitan Statistical Area, which is in the 865 NPA and includes the Knoxville Rate Center, the Central Office servicing Pilot Travel Centers, LLC (“Pilot”). Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator.

On August 8, 2003, AT&T submitted an application to the Pooling Administrator to obtain numbering resources sufficient to satisfy the demands of its customer, Pilot, for a growth code in the 865 NPA area code. Pilot sought two thousand Direct-Inward-Dial numbers in the 865 area code, citing its need as a result of a newly developed faxing application. This faxing application will link each store business and each corporate office

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98.

³ See 47 C.F.R. § 52.15(a); see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator).

⁴ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 FCC Rcd. 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”); see also 47 C.F.R. § 52.15(a).

employee by computer and provide facsimile capability. Pilot maintains that having numbered resources within one telephone prefix is essential to support certain of its daily operations. AT&T applied to the Pooling Administrator because AT&T did not have sufficient numbers within its inventory in the Knoxville Rate Center to satisfy the request. The Pooling Administrator denied AT&T's request on the ground that AT&T had not met the utilization rate or months-to-exhaust requirement in the Central Office Code Guidelines.

On August 21, 2003, AT&T filed its *Petition* with the TRA asserting that the Pooling Administrator's decision to withhold numbering resources violates the orders and rules of the FCC which grant carriers access to numbering resources to meet specific customer demands upon a sufficient showing of need. AT&T further argues the decision interferes with its ability to serve its customers in Tennessee. AT&T requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources to meet Pilot's needs.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the Pooling Administrator's denial of AT&T's application is authorized by the FCC.⁵ According to the FCC,

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering

⁵ *Third Report and Order*, ¶ 61; see also 47 C.F.R. § 54.15(g)(3)(iv).

resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁶

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁷

At a regularly scheduled Authority Conference held on September 8, 2003, the voting panel assigned to this docket considered AT&T's *Petition for Expedited Review of Growth Code Denial by the Number Pooling Administrator Relating to the Knoxville Rate Center*. After consideration of the record, the public interest and this agency's responsibility to foster competition in the telecommunications industry,⁸ the panel voted unanimously to approve AT&T's request for expedited review and reverse the Pooling Administrator's denial of AT&T's request for additional numbering resources, specifically for the assignment of an NXX to AT&T for the Knoxville Rate Center, Switch/POI designation KNVLTNMADS2.

IT IS THEREFORE ORDERED THAT:


1. The *Petition for Expedited Review of Growth Code Denial by the Number Pooling Administrator Relating to the Knoxville Rate Center* filed by AT&T of the South Central States, LLC, is granted.

⁶ *Third Report and Order*, ¶ 61.

⁷ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 FCC Rcd. 15,842, 2001 WL 964979, ¶ 8 (Aug. 24, 2001) ("[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis; that numbering resources are made available on an efficient and timely basis; that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers; and that the state commissions not unduly favor one telecommunications technology over another."); see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237 (*Public Notice*) 16 F.C.C.R. 18,502, 2001 WL 1222428 (Oct. 15, 2001).

⁸ See Tenn. Code Ann. § 65-4-123.


2. The Pooling Administrator's decision to deny AT&T's request for additional numbering resources is reversed as stated herein.



Pat Miller, Director



Sara Kyle, Director



Ron Jones, Director